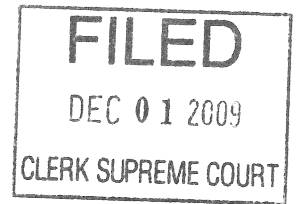


IN THE SUPREME COURT OF IOWA



**IN THE MATTER OF
PRIORITIZATION OF
CASES AND DUTIES**

)
)
)

SUPERVISORY ORDER

In the past year as state revenues have plummeted, the legislature and the governor have significantly reduced appropriations to most state programs and governmental bodies, including the Iowa Judicial Branch. In response to these cutbacks and in anticipation of further reductions, the judicial branch has drastically cut its operating expenses. The situation is so serious that the judicial branch has had to downsize its workforce at all levels of the court system. The judicial branch workforce is now 11% less than it was in April of this year and 16% less than it was in 2002.

At the same time, the workload of the court system remains relatively unchanged. For the most part, caseload and workload demands have long surpassed resources. Now, however, the problem has reached a tipping point. As a result of the most recent workforce reduction, the amount of work to be done by the judicial branch far exceeds the personnel available to do the work in a reasonably timely manner. For example, clerk-of-court offices are now staffed 12% under the clerk-of-court workload formula. Juvenile Court Services now operates with a staffing level that is 9% under its workload formula. Other employee components, including court reporters, case schedulers, court attendants, law clerks and administrators, are also staffed at 12% or more below long-standing staffing measures. In addition, the judicial branch is holding open judicial vacancies for up to six months. Presently, there are six vacant judgeships, and five more will occur through January 2010. These unfilled judicial positions come at a time when the judicial workload formula shows that the state needs twenty-one more judges to meet caseload demands in a timely manner. Although senior judges alleviate the problem somewhat, there are not enough senior judges to make up the difference. To exacerbate this situation, all judges and court staff will take ten days of unpaid leave over the next seven months. Although our judges and court staff will strive to keep cases moving, even the most productive person can only do so much in a day. Consequently, litigants and others who use the courts will experience long delays and cuts in services. These problems, although undesirable, are unavoidable.

Under the circumstances, it is increasingly important for the judicial branch to concentrate its limited resources on priority cases and duties to ensure that those matters receive timely attention to the greatest extent feasible. Priority cases are cases that involve a constitutional mandate that necessitates timely adjudication, as well as cases that involve the health, safety, and well-being of vulnerable citizens, including children. In recognition of this responsibility, the supreme court solicited and received suggestions of prioritized case lists from three judicial districts, the Iowa Judges Association, the Magistrates Association, and the Clerk of Court Association. Based upon this input, the supreme court has approved the following lists of cases and duties to which judges, magistrates, clerks and other employees should afford priority and those to which they should not afford any priority for purposes of scheduling, hearing, and handling cases and performing other duties.

GENERAL PRIORITIES

Emergency Matters

Highest priority shall be given to emergency matters in case types such as mental health (chapter 229), substance abuse (chapter 125), relief from domestic abuse (chapter 236), waiver of parental notification of abortion, injunctive relief involving an imminent threat of serious harm to health or safety, emergency removal orders in juvenile cases, and criminal warrants.

Priority Cases

Within the following general list of priority cases, judges, magistrates, and staff should exercise their judgment and give precedence based on the facts and circumstances of each case.

- Civil commitment cases under chapters 125 and 229
- Domestic abuse cases under chapter 236
- Juvenile cases under chapter 232, including child in need of assistance, termination of parental rights, and juvenile delinquency
- Criminal cases—especially where defendants demand speedy trial
- Cases involving child custody, physical care, visitation, and child support
- Guardianship cases
- Other cases involving a threat of serious harm to health or safety

Cases That Will Not Be Given Priority

Within the following general list of cases that are not to be given priority, judges, magistrates, and staff should exercise their judgment and give precedence based on the facts and circumstances of each case.

- Dissolutions of marriage not involving children
- Foreclosure actions
- Civil actions for recovery of money damages
- Small claims
- Administrative appeals (chapter 17A)
- Probate other than guardianships
- Other law and equity cases

MAGISTRATE PRIORITIES

(Matters are listed in descending order of priority. This priority list shall apply to district judges and district associate judges when they are exercising the jurisdiction of magistrates.)

As a general matter, magistrates should ensure continuous accessibility to clerks, law enforcement, court personnel, mental health personnel, and lawyers. See Iowa Code § 602.6105(3). These “on-call” duties range from high priority cases down to very routine matters of the lowest priority. Magistrates should grant the highest priority to issuance of orders setting up mental health commitments. Magistrates should attempt to comply with all statutory and rule-based timelines to the extent reasonably feasible. However, these timelines may have to give way to pending matters of greater priority.

- Emergency hospitalizations. See Iowa Code § 229.22 (requiring immediate attention when contacted).
- Arrest and search warrant applications. See Iowa Code §§ 804.1 and 808.3.
- Initial appearances. See Iowa R. Crim. P. 2.2(1) (requiring initial appearance without unnecessary delay after arrest); Iowa R. Crim. P. 2.1(2)(d) (defining unnecessary delay as unexcused delay longer than 24 hours).
- Involuntary hospitalization hearings. See Iowa Code § 229.11 (requiring hearing within 5 days if immediate custody is ordered).
- FED hearings. See Iowa Code § 648.5 (requiring hearing within 7 days of petition).
- Preliminary hearing. See Iowa R. Crim. P. 2.2(4)(a) (requiring hearing within 10 days of initial appearance if incarcerated).
- Preliminary hearing. See Iowa R. Crim. P. 2.2(4)(a) (requiring hearing within 20 days of initial appearance if not in jail).
- Mental health hearings without immediate custody.

- Simple misdemeanor & traffic trials. *See* Iowa R. Crim. P. 2.64 (requiring trial at least 15 days after plea is entered).
- Small claims hearings. *See* Iowa Code § 631.5 (requiring hearing not less than 5 days nor more than 20 days after latest timely appearance unless otherwise ordered by the court).
- Entry of small claims defaults and rulings.
- Routine matters including issuance of citations, and periodic involuntary hospitalization reports if no change in placement required.

CLERK OF THE IOWA DISTRICT COURT PRIORITIES

(Matters are listed in descending order of priority.)

Clerks should attempt to comply with all statutory and rule-based timelines to the extent reasonably feasible. However, these timelines may have to give way to pending matters of greater priority.

- Emergency*
- Accounting and depositing of receipts
- Criminal - felony and indictable misdemeanor
- Mental health and substance abuse commitments
- Juvenile
- Equity – child custody only
- Child support, including cases filed by CSRU
- Adoption/conservatorship/guardianship
- Criminal – simple misdemeanor excluding scheduled violations and non-scheduled traffic
- Equity – other than child custody
- Law cases
- Small claims
- Criminal – simple misdemeanor - scheduled violations and non-scheduled traffic
- Probate
- Seized property
- Name change
- Check monthly “filings” statistical reports

*Emergency: This category includes the mandated and practical urgent processing of applications/petitions and subsequent orders and warrants on matters which maintain the immediate health, welfare, and safety of the public. Emergency matters falling within this category will arise in case types such as mental health and substance abuse, relief from domestic abuse, waiver of

parental notification of abortion, injunctive relief, emergency removal orders in juvenile cases, and criminal.

Dated this 1st day of December, 2009.

THE SUPREME COURT OF IOWA

By Marsha Ternus
Marsha K. Ternus, Chief Justice